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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 27

[Doc. # AMS-CN-12-0024]

RIN: 0581-AD26

Revision of Regulations Defining Bona Fide Cotton Spot Markets

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) is proposing to amend the regulation that specifies which states compose bona fide cotton spot markets in order to assure consistency with the revised Cotton Research and Promotion Act. Updated bona fide spot market definitions will allow for published spot quotes to consider spot prices of cotton marketed in Kansas and Virginia. AMS is also proposing to amend references to the "New York Cotton Exchange" to read the "Intercontinental Exchange."

**DATES:** Comments must be received on or before [Insert date 30 days after date of publication in the Federal Register].

**ADDRESSES:** Interested persons may comment on the proposed rule using the following procedures:

- Internet: <http://www.regulations.gov>.
- Mail: Comments may be submitted by mail to: Darryl Earnest,

Deputy Administrator, Cotton & Tobacco Programs, AMS, USDA, 3275 Appling Road, Room 11, Memphis, TN 38133. Comments should be submitted in triplicate. All comments should reference the docket number and the date and the page of this issue of the **Federal Register**. All comments will be available for public inspection during regular business hours at Cotton & Tobacco Program, AMS, USDA, 3275 Appling Road, Memphis, TN 38133. A copy of this notice may be found at: [www.ams.usda.gov/cotton/rulemaking.htm](http://www.ams.usda.gov/cotton/rulemaking.htm).

**FOR FURTHER INFORMATION CONTACT:** Darryl Earnest, Deputy Administrator, Cotton & Tobacco Programs, AMS, USDA, 3275 Appling Road, Room 11, Memphis, TN 38133. Telephone (901) 384-3060, facsimile (901) 384-3021, or e-mail [darryl.earnest@ams.usda.gov](mailto:darryl.earnest@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866**

This proposed rule has been determined to be not significant for purposes of Executive Order 12866; and, therefore has not been reviewed by the Office of Management and Budget (OMB).

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have

retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

### **Regulatory Flexibility Act**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. There are an estimated 25,000 cotton growers in the U.S. who voluntarily use the AMS cotton classing services annually, and the majority of these cotton growers are small businesses under the criteria established by the Small Business Administration (13 CFR §121.201). Revisions to the regulations concerning bona fide spot market definitions are necessary to assure consistency with the revised Cotton Research and Promotion Act and to allow for published spot quotes to consider spot prices of cotton marketed in Kansas and Virginia. Changes in spot market definitions as stated will not significantly affect small businesses as defined in the RFA because:

(1) How spot prices are estimated are not expected to be impacted by this action;

(2) Business practices of the U.S. cotton industry are not expected to change as a result of this action;

(3) Costs associated with providing market news services will not be significantly changed by this action;

(4) Market news services are paid for by appropriated funds, therefore users are not charged fees for the provision of the services.

#### **Paperwork Reduction Act**

In compliance with OMB regulations (5 CFR part 1320), which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501), the information collection requirements contained in the provisions to be amended by this proposed rule have been previously approved by OMB and were assigned OMB control number 0581-0009, Cotton Classification and Market New Service.

#### **Background**

The Secretary of Agriculture is authorized under the United States Cotton Futures Act (7 U.S.C. 15b) to designate at least five bona fide spot markets from which cotton price information can be collected. A spot market - also called the "cash market" or "physical market" - is a market where commodities are sold on the spot for cash at current market prices and delivered

immediately. Designation of these bona fide spot markets and the determination of which counties and states compose each of these spot markets was most recently published in the Federal Register on August 4, 1988 (53 FR 29327). For each of these bona fide spot markets, the Cotton and Tobacco Programs of the Agricultural Marketing Service collects market price information under the United States Cotton Futures Act (7 U.S.C. 15b), the Cotton Statistics and Estimates Act (7 U.S.C. 473b) and the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(g)). This price information is then used to calculate price differences for cotton futures contracts.

The Food, Conservation, and Energy Act of 2008 (Pub.L. 110-234, 122 Stat. 923, enacted May 22, 2008, H.R. 2419) amended Section 17(f) of the Cotton Research and Promotion Act (7 U.S.C. 2116(f)), designating Kansas, Virginia, and Florida as cotton producing states for purposes of the Cotton Research and Promotion Act. To achieve consistency with the revised Cotton Research and Promotion Act and to allow for published spot quotes to consider spot prices of cotton marketed in the aforementioned states, § 27.93 would be amended to add all the counties of Virginia to the Southeastern spot market, and Kansas to the East Texas and Oklahoma spot market.

On September 14, 2006, New York Board of Trade - the parent

company of the New York Cotton Exchange - agreed to become a unit of Intercontinental Exchange. This transaction was completed on January 12, 2007. To reflect this organizational change in the regulations, § 27.94 would amend references to the "New York Cotton Exchange" to read as the "Intercontinental Exchange."

#### **List of Subjects in 7 CFR Part 27**

Commodity futures, Cotton.

For the reasons set forth in the preamble, 7 CFR Part 27 is proposed to be amended as follows:

#### **PART 27 - [Amended]**

1. The authority citation for 7 CFR part 27 continues to read as follows:

**Authority:** 7 U.S.C. 15b, 7 U.S.C. 473b, 7 U.S.C. 1622(g).

2. In § 27.93, definitions of the Southeastern market and the East Texas and Oklahoma market are revised to read as follows:

#### **§ 27.93 Bona fide spot markets.**

\* \* \* \* \*

Southeastern

All counties in the states of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia and all counties in the state of Tennessee east of and including Stewart, Houston, Humphreys, Perry, Wayne and Hardin counties.

\* \* \* \* \*

East Texas and Oklahoma

All counties in the states of Kansas and Oklahoma and the Texas counties east of and including Montague, Wise, Parker, Erath, Comanche, Mills, San Saba, Mason, Sutton, Edwards, Kinney, Maverick, Webb, Zapata, Star and Hidalgo counties.

\* \* \* \* \*

3. In § 27.94, paragraph (a) is revised to read as follows:

**§ 27.94 Spot markets for contract settlement purposes.**

\* \* \* \* \*

(a) For cotton delivered in settlement of any No. 2 contract on the Intercontinental Exchange (ICE); Southeastern, North and South Delta, Eastern Texas and Oklahoma, West Texas, and Desert Southwest.

\* \* \* \* \*

Dated: February 4, 2013.

**David R. Shipman**  
Administrator  
Agricultural Marketing Service.

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